

# WISCONSIN TAX BULLETIN



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## PUBLICATION'S NEW TITLE

You will note the change in the title of this publication to Wisconsin Tax Bulletin. The new title should avoid any confusion which may have resulted between this publication and another organization's publication similar in title to our old one (Wisconsin Tax News).

Suggestions for topics and areas of interest for future issues of Wisconsin Tax Bulletin continue to be welcome. Send your suggestions to: Wisconsin Tax Bulletin, Technical Services Staff, Department of Revenue, 201 E. Washington Avenue, 4th floor, Madison, Wisconsin 53702.

## REVISIONS TO 1976 INDIVIDUAL INCOME TAX FORMS

This month tax forms will be available for use in filing 1976 Wisconsin individual income tax returns. The 1976 forms will contain some changes from the 1975 forms. The most significant changes include the following:

1. Form 1 (long form) - Consecutive Line Numbering. The lines on page 2 of Form 1 have been consecutively numbered, continuing from the numbers on page 1.
2. Form 1 and Form 1A (short form) - New Question. A new question has been placed on both Form 1 and Form 1A. It asks if the Internal Revenue Service (IRS) has adjusted any of the taxpayer's federal returns after May 4, 1976 or if the taxpayer has filed an amended return with the IRS or another state after May 4, 1976. If adjustments were made or amended returns were filed, the tax years involved must be noted on the return in the space provided.

This question was placed on the forms because of a new Wisconsin statute enacted during 1976 (s. 71.11 (21m), Wis. Stats.).

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Under the statute, if a taxpayer's federal income tax return is adjusted by the IRS and the adjustments affect the amount of Wisconsin income or tax payable, the taxpayer must report the adjustments to the Department within 90 days after they become final. If an amended return is filed with the IRS or another state and the changes on such return affect the amount of Wisconsin income or tax payable, an amended Wisconsin return reflecting these changes must also be filed. The amended Wisconsin return must be filed within 90 days after the amended return is filed with the IRS or another state.

To simplify the filing of an amended Wisconsin return, Wisconsin Form 1X may be used and is available at any Department office. However, a copy of the federal audit report or amended return is acceptable in lieu of a Form 1X. Form 1X or a copy of the federal audit report or amended return should be sent to:

Wisconsin Department of Revenue  
Audit Bureau  
Post Office Box 80  
Madison, Wisconsin 53701

This requirement of notifying the Department of federal adjustments or amended

returns also applies to corporate adjustments made after May 4, 1976 or amended returns of corporations which were filed after May 4, 1976. A question regarding federal adjustments also appears on corporation Form 4 (long form) and Form 5 (short form).

3. Homestead Certification of Rent Paid Form - Total Revision. This form has been revised for 1976 to make the rental form easier to complete. In addition, instructions have been developed to assist both the claimant (renter) and landlord in completing it.

4. Form 1-ES, Declaration of Estimated Tax. This form has been revised to help implement a new Department procedure for mailing declaration payment notices. An explanation of this new procedure is found on page 2 of this Bulletin.

5. New Forms - Child Care and Sick Pay Exclusion. The federal "Tax Reform Act of 1976" which became law in October 1976 created differences between the Wisconsin and federal income tax treatment of child (household and dependent) care expenses and sick pay. As a result, 2 new schedules have been developed for use in computing the Wisconsin itemized deduction allowable for child care expenses (Schedule 2441W) and the amount of sick pay or disability pension excludable from income (Schedule 2440W). These schedules may be obtained from any Department office.

## 1976 FEDERAL TAX LAWS DO NOT APPLY FOR WISCONSIN

Since the 1975 taxable year, Wisconsin individual income tax law no longer automatically adopts the changes to the federal Internal Revenue Code. For the 1976 taxable year, only those provisions of the Internal Revenue Code which were enacted into law by December 31, 1975 may be

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used for Wisconsin purposes. In other words, none of the federal tax law changes enacted during 1976 (including the "Tax Reform Act of 1976") apply in determining Wisconsin taxable income.

As a result, a number of income and deduction items will be different on 1976 Wisconsin and federal income tax returns. Federal adjusted gross income and itemized deductions may, in some instances, have to be recomputed before they may be used on the Wisconsin tax return. Like last year, this recomputation must be done on Wisconsin "Schedule I".

Examples of common items which will differ on the 1976 Wisconsin and federal tax returns are sick pay exclusions, child care expense deductions, office-in-home expenses and certain farm income relating to drought and other disasters.

Detailed information regarding these differences and others, are found in the instructions for the Wisconsin Form 1 and Schedule I. TIM I-34, entitled "Computing 1976 Wisconsin Taxable Income and Deductions Under the Internal Revenue Code in Effect on December 31, 1975", includes a copy of Schedule I and its instructions.

### COMMON ERRORS TO AVOID ON INCOME TAX RETURNS

Each year, the processing of many thousands of income tax returns are delayed because the returns are either incomplete or incorrectly prepared. Small, unnecessary oversights often cause needless delays in the Department's processing system.

To help speed up the handling of tax returns, we offer the following suggestions to avoid the most common errors:

1. Proper wage statements should be attached. Last year, the Department made over 7,500 phone calls for wage statements to verify amounts listed on a return.
2. A complete copy of the federal income tax return (Form 1040 and all accompanying schedules) should be included with the Wisconsin Form 1 (but not with the Wisconsin short form 1A).
3. If both husband and wife have income, both spouses must sign the return.

4. Including a taxpayer's telephone number will permit the Department to contact the taxpayer quickly if additional information is needed.

5. The municipality and county in which the taxpayer lived in 1976 should be identified. This is easily done by checking the proper box and entering the name of the taxpayer's city, village, or township and county. If the taxpayer operated a business or practiced a profession, the name of the municipality and county in which the taxpayer lived should be shown in this space, not the place where the office or business was located. No entry is necessary for nonresidents.

6. The taxpayer's school district number should be entered on the appropriate line.

7. If there is a tax due, a check for the tax due should be made payable to the Wisconsin Department of Revenue and stapled to the Wisconsin return. The check and return should be sent to the Department at P.O. Box 268, Madison, Wisconsin 53701.

8. If a refund is due, it should be entered on the proper line. The return should be addressed to the Department at P.O. Box 59, Madison, Wisconsin 53701. (Returns with neither a tax nor a refund due should also be sent to this address.)

9. Proper verification of any credit claimed for tax paid to other states must be enclosed. The instructions in the income tax booklet describe the verification needed.

10. With Homestead Credit claims, a copy of the real estate tax bill or rent certificate must be enclosed.

### TAXPAYER AND TAX PRACTITIONER ASSISTANCE

Throughout the 1977 filing season, taxpayers and tax practitioners may have questions or need additional tax forms. If so, the Department of Revenue can help. It has auditors and tax representatives located in 36 offices throughout Wisconsin to provide tax assistance.

Department offices are located in the following places: Appleton, Baraboo, Barron, Beaver Dam, Beloit, Eau Claire, Elkhorn, Fond du Lac, Grafton, Green Bay, Green Lake, Hayward, Hudson, Hurley, Janesville, Kenosha, La Crosse, Lancaster, Madison, Manitowoc, Marinette, Marshfield, Milwaukee, Monroe, Oshkosh, Racine,

Rhineland, Shawano, Sheboygan, Superior, Tomah, Watertown, Waukesha, Wausau, West Bend and Wisconsin Rapids.

To determine the street address and telephone number of the Department office nearest you, refer to your telephone book. Prior to visiting an office, you may wish to call and confirm its office hours. Both taxpayers and practitioners are welcome to contact the Department for assistance.

### NEW 1977 ESTIMATED TAX PAYMENT FORM AND PROCEDURES

The Wisconsin estimated tax form (Form 1-ES) for individuals has a new look for 1977. It was redesigned to reflect a change in the Department's billing procedure for second, third and fourth quarter installment payments.

The Department has adopted what might be called a modified voucher system. The Department will no longer provide separate reminder billing notices for each of the second, third and fourth quarter estimated tax payments shortly before they become due. Instead, a single mailing of payment vouchers will be made in June for all remaining installments.

Unlike the billing notices used in 1976, the new vouchers will not indicate any dollar amounts. Taxpayers must enter the proper amount and return each voucher and remittance by each due date. The worksheet portion of Form 1-ES, completed at the time the estimate is originally made, should be retained by the taxpayer and used to record his or her payments.

A separate area is provided on Form 1-ES for use in revising an estimate. Therefore, it is no longer necessary to file amended estimated tax forms with the Department. When it is necessary to increase or decrease an installment payment, the revised amount may simply be entered on the next payment voucher filed.

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### CHANGE IN CORPORATE EXTENSION LAW

A corporation may now file its Wisconsin franchise/income tax return within the same extension period allowed for filing its corresponding federal income tax return. Chapter 214, Laws of 1975, which is effective for returns due on and after April 24, 1976, provides that the automatic three month extension and additional extensions available under the Internal Revenue Code for federal purposes will also be recognized for Wisconsin purposes.

The following two requirements must be met by a corporation using federal extensions:

1. If an automatic three month federal extension has been granted, a copy of the federal extension (Form 7004) must be filed with the Wisconsin franchise/income tax return.
2. If an additional extension has been granted by the Internal Revenue Service, a copy of such additional extension (Form 7005) must be submitted to the Department of Revenue within ten days of its receipt. A copy of Form 7005 should also be submitted with the tax return when it is filed.

Should the IRS, for any reason, refuse to grant an extension or terminate one previously granted, the Wisconsin franchise/income tax return will be due on the same date as the federal return.

Extensions of up to thirty days will continue to be granted by the Department if requested prior to the original due date of a return.

A Domestic International Sales Corporation (DISC) is required to file a federal annual information return (Form 1120 DISC). Under the Internal Revenue Code, this federal return is due on or before the 15th day of the 9th month following the end of the taxable year.

The DISC's Wisconsin return (Form 4 or 5) is due on or before the 15th day of the third month following the end of the taxable year. To extend the due date for filing the Wisconsin return, a DISC taxpayer must request a thirty day extension from the Department under s. 71.10 (5) (a). If a complete return cannot be filed by the due date, a tentative return must be filed by

such date or a thirty day extension may be requested and a tentative return then must be filed before the end of the extension period to avoid the imposition of late filing penalties.

Extensions and related correspondence, documents or remittances should be mailed to:

Wisconsin Department of Revenue  
Post Office Box 98  
Madison, Wisconsin 53701

TIM I-32, entitled, "Extension of Time to File Corporation Franchise/Income Tax Returns" and dated December 3, 1976, contains further information on corporate extensions.

### REPORT ON LITIGATION

*(This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. In cases which decisions adverse to the Department's position are rendered, it will be noted whether or not the Department acquiesces or will appeal.)*

**Estate of Samuel Mavrogenis**, Wisconsin Supreme Court (No. 75-80, Oct. 19, 1976). The decedent, Samuel Mavrogenis (who provided all the consideration) and his wife acquired 3 parcels of realty between 1945 and 1966 which they held in joint tenancy. In June 1973, when Mr. Mavrogenis was terminally ill, the properties were converted from joint tenancy with right of survivorship to tenancy in common. He then died on October 31, 1973.

Mrs. Mavrogenis, as the estate's personal representative, filed an inheritance tax return reporting the 3 parcels at one-half value. The Department subsequently assessed the parcels at full value contending that the conversions from joint tenancy to tenancy in common were transfers in contemplation of death under s. 72.12 (4) (a), Wis. Stats.

Following property law, the court found that the land was to be taxed at one-half value. It held that the husband owned an undivided one-half interest in the parcels both before and after the ownership change. Because with the change of title, the decedent did not divest himself of anything, there was no taxable transfer in contemplation of death. The Department will not appeal this decision.

### TAX RELEASES

("Tax Releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. However, the answers may not apply to all questions of a similar nature. In situations where the facts vary from those given herein, it is recommended that advice be sought from the Department. Unless otherwise indicated, Tax Releases apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.)

NOTE: Many of these were formerly distributed to Department personnel as sales tax memos or reports. It is thought that these positions would be of help to taxpayers and tax practitioners.)

#### INCOME TAX

Wage Continuation Payments—Section 16.31, Wis. Stats., provides for the payment of full salary to certain State of Wisconsin employes who are injured in the course of performing their official duties. The types of employes which are eligible for such benefit are enumerated in the statute. They can generally be described as those involving some hazardous duties. Examples include conservation wardens, state forest rangers, state patrol members, special tax agents and state probation and parole officers.

Upon request of the Department, the Internal Revenue Service has reviewed the status of payments made under s. 16.31. The IRS concluded the payments to be "in the nature of workers' compensation" and, therefore, excludable from gross income under Section 104 (a) (1) of the Internal Revenue Code. Since that section of the Internal Revenue Code applies in determining Wisconsin taxable income, the s. 16.31 payments are also not taxable for Wisconsin tax purposes.

#### SALES TAX

##### I. Gifts and Advertising Specialties

Persons who make gifts of personal property to others are the consumers of the property and the tax applies to the sale of the property to such persons. This includes

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